



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2016-0263]

RIN 1625-AA00

Safety Zone; Bayou Teche, Crude Oil Spill; Jeanerette, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on all navigable waters of Bayou Teche from Jeanerette, LA to Linwood, LA. This safety zone is necessary to protect persons, property, and infrastructure from potential damage and safety hazards associated with an 11,550 gallon type III crude oil spill and corresponding response efforts. During the periods of enforcement, entry into and transiting or anchoring within this safety zone is prohibited unless specifically authorized by Captain of the Port (COTP) Morgan City or other designated representative.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until April 15, 2016. The rule will be enforced until April 15, 2016, or until emergency spill response efforts are complete, whichever occurs

earlier. For the purposes of enforcement, actual notice will be used from March 29, 2016 until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0263 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Vanessa Taylor, Chief of Waterways Management, U.S. Coast Guard MSU Morgan City 800 David Dr, Morgan City LA, 70380; telephone (985) 380-5334, e-mail Vanessa.R.Taylor@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency

for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate emergency efforts are required to respond to an oil spill on Bayou Teche. This spill poses an extremely hazardous condition to the public and environment until it is contained and cleaned up. It is impracticable to publish an NPRM because we must establish this safety zone by March 29, 2016.

We are issuing this rule, and under 5 U.S.C. 553(d) (3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to provide additional safety measures during the spill cleanup to ensure safety of the public and environment.

III. Legal Authority and Need for Rule

The legal basis and authorities for this rule are found in 33 U.S.C. 1231.

The purpose of the rule is to establish the necessary temporary safety zone to protect persons, property, and infrastructure from potential damage and safety hazards during emergency response efforts associated with an 11,550 gallon crude

oil spill on Bayou Teche.

IV. Discussion of the Rule

This rule establishes a safety zone from March 29, 2016 through April 15, 2016 or until emergency spill response efforts are complete, whichever occurs earlier. The safety zone will cover all navigable waters of Bayou Teche from Jeanerette, LA to Linwood, LA. This safety zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the pollution response and cleanup occur. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This

rule has not been designated a "significant regulatory action," under executive order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and traffic during the time-of-year of the safety zone. The safety zone only impacts a small designated area of Bayou Teche Waterway from Jeanerette, LA to Linwood, LA from March 29, 2016 through April 15, 2016 or until emergency spill response efforts are complete, whichever occurs earlier. Additionally, this is a time of year when vessel traffic is normally low. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 informing waterway users of the safety zone and any changes in the schedule. Finally, the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant

economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under executive order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in executive order 13132.

Also, this rule does not have tribal implications under executive order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act

addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting less than 20 days that will prohibit entry in all navigable waters of the Bayou Teche from Jeanerette, LA to Linwood, LA. It is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (waters), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165-REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T08-1121 to read as follows:

§ 165.T08-1121 Safety Zone; Bayou Teche, Crude Oil Spill; Jeanerette, LA.

(a) Location. The following area is a safety zone: All waters of Bayou Teche from Jeanerette, LA to Linwood, LA.

(b) Definitions. As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officers operating a Coast Guard vessel and a Federal, State, and local officer

designated by or assisting the Captain of the Port (COTP) Morgan City in the enforcement of the safety zones.

(c) Regulations. (1) Under the general safety zone regulations in 33 CFR part 165 subpart C, you may not enter the safety zones described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative via VHF-FM channel 16, or through Coast Guard Marine Safety Unit Morgan City at 985-380-5334. Those in the safety zones must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) Enforcement period. This rule will be enforced from March 29, 2016 through April 15, 2016 or until emergency spill response efforts are complete, whichever occurs earlier.

(e) Informational broadcasts. The COTP or a designated

representative will inform the public through broadcasts notice to mariners of the enforcement period for the emergency safety zones as well as any changes in the dates and times of enforcement.

Dated: March 29, 2016

D.G. McClellan,

Captain, U.S. Coast Guard,

Captain of the Port Morgan City, Louisiana.

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